

the business or organization for more than the greater of—

(1) \$100,000; or
(2) the amount of pre-tax compensation received by the director, officer, trustee, or employee from the business or organization during the 12 months immediately preceding the act or omission for which liability is imposed.

(b) EXCEPTION.—Subsection (a) does not apply in any Y2K action in which it is found by clear and convincing evidence that the director, officer, trustee, or employee—

(1) made statements intended to be misleading regarding any actual or potential year 2000 problem; or

(2) withheld from the public significant information there was a legal duty to disclose regarding any actual or potential year 2000 problem of that business or organization which would likely result in actionable Y2K failure.

(c) STATE LAW, CHARTER, OR BYLAWS.—Nothing in this section supersedes any provision of State law, charter, or a bylaw authorized by State law in existence on January 1, 1999, that establishes lower financial limits on the liability of a director, officer, trustee, or employee of such a business or organization.

SEC. 15. APPOINTMENT OF SPECIAL MASTERS OR MAGISTRATES FOR Y2K ACTIONS.

Any District Court of the United States in which a Y2K action is pending may appoint a special master or a magistrate to hear the matter and to make findings of fact and conclusions of law in accordance with Rule 53 of the Federal Rules of Civil Procedure.

SEC. 16. Y2K ACTIONS AS CLASS ACTIONS.

(a) MINIMUM INJURY REQUIREMENT.—A Y2K action involving a claim that a product or service is defective may be maintained as a class action in Federal or State court as to that claim only if—

(1) it satisfies all other prerequisites established by applicable Federal or State law, including applicable rules of civil procedure; and

(2) the court finds that the defect in a product or service as alleged would be a material defect for the majority of the members of the class.

(b) NOTIFICATION.—In any Y2K action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class, which shall include—

(1) a concise and clear description of the nature of the action;

(2) the jurisdiction where the case is pending; and

(3) the fee arrangements with class counsel, including the hourly fee being charged, or, if it is a contingency fee, the percentage of the final award which will be paid, including as estimate of the total amount that would be paid if the requested damages were to be granted.

(c) FORUM FOR Y2K CLASS ACTIONS.—

(1) JURISDICTION.—Except as provided in paragraph (2), a Y2K action may be brought as a class action in a United States District Court or removed to a United States District Court if the amount in controversy is greater than the sum or value of \$1,000,000 (exclusive of interest and costs), computed on the basis of all claims to be determined in the action.

(2) EXCEPTION.—A Y2K action may not be brought or removed as a class action under this section if—

(A) a substantial majority of the members of the proposed plaintiff class are citizens of a single State;

(B) the primary defendants are citizens of that State; and

(C) the claims asserted will be governed primarily by the law of that State, or the primary defendants are States, State officials, or other governmental entities against whom the United States District Court may be foreclosed from ordering relief.

(D) This section shall become effective one day after the date of enactment.

INHOFE AMENDMENT NO. 272

(Ordered to lie on the table.)

Mr. INHOFE submitted an amendment intended to be proposed by him to the bill, S. 96, *supra*; as follows:

At the appropriate place, insert the following:

SEC. —. Y2K REGULATORY AMNESTY ACT OF 1999.

(a) SHORT TITLE.—This section may be cited as the “Y2K Regulatory Amnesty Act of 1999”.

(b) DEFINITIONS.—In this section:

(1) DEFENDANT.—

(A) IN GENERAL.—The term “defendant” includes a State or local government.

(B) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(C) LOCAL GOVERNMENT.—The term “local government” means—

(i) any county, city, town, township, parish, village, or other general purpose political subdivision of a State; and

(ii) any combination of political subdivisions described in clause (i) recognized by the Secretary of Housing and Urban Development.

(2) Y2K FAILURE.—The term “Y2K failure” means any failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving date-related data, including—

(A) the failure to accurately administer or account for transitions or comparisons from, into, and between the 20th and 21st centuries, and between 1999 and 2000; or

(B) the failure to recognize or accurately process any specific date, and the failure accurately to account for the status of the year 2000 as a leap year.

(3) Y2K UPSET.—The term “Y2K upset”—

(A) means an exceptional incident involving temporary noncompliance with applicable federally enforceable requirements because of factors related to a Y2K failure that are beyond the reasonable control of the defendant charged with compliance; and

(B) does not include—

(i) noncompliance with applicable federally enforceable requirements that constitutes or would create an imminent threat to public health, safety, or the environment;

(ii) noncompliance with applicable federally enforceable requirements that provide for the safety and soundness of the banking or monetary system, including the protection of depositors;

(iii) noncompliance to the extent caused by operational error or negligence;

(iv) lack of reasonable preventative maintenance; or

(v) lack of preparedness for Y2K.

(c) CONDITIONS NECESSARY FOR A DEMONSTRATION OF A Y2K UPSET.—A defendant who wishes to establish the affirmative defense of Y2K upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that—

(1) the defendant previously made a good faith effort to effectively remediate Y2K problems;

(2) a Y2K upset occurred as a result of a Y2K system failure or other Y2K emergency;

(3) noncompliance with the applicable federally enforceable requirement was unavoidable in the face of a Y2K emergency or was intended to prevent the disruption of critical functions or services that could result in the harm of life or property;

(4) upon identification of noncompliance the defendant invoking the defense began immediate actions to remediate any violation of federally enforceable requirements; and

(5) the defendant submitted notice to the appropriate Federal regulatory authority of a Y2K upset within 72 hours from the time that it became aware of the upset.

(d) GRANT OF A Y2K UPSET DEFENSE.—Subject to the other provisions of this section, the Y2K upset defense shall be a complete defense to any action brought as a result of noncompliance with federally enforceable requirements for any defendant who establishes by a preponderance of the evidence that the conditions set forth in subsection (c) are met.

(e) LENGTH OF Y2K UPSET.—The maximum allowable length of the Y2K upset shall be not more than 30 days beginning on the date of the upset unless granted specific relief by the appropriate regulatory authority.

(f) VIOLATION OF A Y2K UPSET.—Fraudulent use of the Y2K upset defense provided for in this section shall be subject to penalties provided in section 1001 of title 18, United States Code.

(g) EXPIRATION OF DEFENSE.—The Y2K upset defense may not be asserted for a Y2K upset occurring after June 30, 2000.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Tuesday, May 4, 1999 at 9:30 a.m. to conduct an oversight hearing on Census 2000, Implementation in Indian Country. The hearing will be held in room 485, Russell Senate Building.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, May 5, 1999 at 9:30 a.m. to conduct an oversight hearing on Tribal Priority Allocations. The hearing will be held in room 485, Russell Senate Building.

SUBCOMMITTEE ON ENERGY, RESEARCH, DEVELOPMENT, PRODUCTION AND RESOLUTION

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a joint hearing has been scheduled before the Subcommittee on Energy Research, Development, Production and Regulation of the Senate Energy and Natural Resources Committee and the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the House Committee on Government Reform.

The hearing will take place on Thursday, May 20, 1999 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony and conduct oversight on the Administration's FY2000 budget request for climate change programs and compliance with various statutory provisions in FY1999 appropriations acts requiring detailed accounting of climate change spending and performance measures for each requested increase in funding.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Energy Research, Development, Production and Regulation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please call Colleen Deegan, Counsel, or Julia McCaul, Staff Assistant at (202) 224-8115 in the Senate. In the House, please contact Marlo Lewis, Staff Director, or Barbara Kahlow, Professional Staff Member at (202) 225-4407.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Research, Development, Production and Regulation.

The hearing will take place on Thursday, May 20, 1999 at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 348, to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Energy Research, Development, Production and Regulation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please call Colleen Deegan, Counsel, or Julia McCaul, Staff Assistant at (202) 224-8115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, April 27, 1999, at 9:30 a.m. in open session, to consider the nominations of Mr. Brian E. Sheridan, to be Assistant Secretary of De-

fense for Special Operations and Low Intensity Conflict; and Dr. Lawrence J. Delaney, to be Assistant Secretary of the Air Force for Acquisition.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet on Tuesday, April 27, 1999, at 9:30 a.m. on OMC/Truck Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during session of the Senate on Tuesday, April 27, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 25, the Conservation and Reinvestment Act of 1999; S. 446, the Resources 2000 Act; S. 532, the Public Land and Recreation Investment Act of 1999; S. 819, the National Park Preservation Act; and the Administration's Lands Legacy proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCAIN. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, April 27, 1999 beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 27, 1999 at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Medical Records Privacy" during the session of the Senate on Tuesday, April 27, 1999, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Tuesday, April 27, 1999, at 10 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Sub-

committee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Tuesday, April 27, 1999, in open session, to receive testimony on the threat of international narcotics-trafficking and the role of the Department of Defense in the Nation's war on drugs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, April 27, 1999 at 2:15 p.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: "The Need for Additional Border Patrol at the Northern and Southern Borders."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE BUILDING OF SISSETON FIRE HALL

• Mr. JOHNSON. Mr. President, I want to take this opportunity to recognize an extraordinary group of citizens who came together to address their community needs in building a new fire hall. The old facility, which has served so faithfully for so many decades, had reached the limits of its productivity in February 1997, when the record snowfall created great stress on the roof. The need for action was immediate, and the Sisseton Community responded quickly. Members of the Sisseton Fire Department and Roberts County Rescue mounted a financial campaign to raise the additional money needed above what national, state, tribal, and local governments were able to provide. Fire fighters and rescue volunteers donated extra time by holding fundraising activities in addition to their fire and rescue responsibilities. Local businesses and individuals responded generously. The new fire hall is now a reality. It has become a true emergency operating center that the entire Sisseton community can look toward with pride.

I commend the entire community for this exemplary effort, and hold it up as a shining example of the sense of community which still exists in places like Sisseton, SD.●

MAESTRO COLMAN PEARCE

• Mr. COCHRAN. Mr. President, when the Mississippi Symphony Orchestra concludes its 54th season with its traditional "Pops Concert" in Jackson on May 7, Maestro Colman Pearce will retire after twelve years as music director and principal conductor. During his tenure, Pearce has brought life and vigor to the mission of the Mississippi Symphony Orchestra. He has projected